

#### § 240.14

#### 31 CFR Ch. II (7-1-04 Edition)

been appointed, all checks issued to an incompetent payee must be returned to the certifying agency for determination as to whether, under applicable law, payment is due and to whom it may be made.

(c) *Handling of certain checks by an attorney-in-fact.* Notwithstanding paragraph (a)(2) of this section, if a check was issued for a class of payments the right to which under law terminates upon the death of the beneficiary, such as a recurring benefit payment or annuity, the check may be negotiated under a durable special power of attorney or springing durable special power of attorney subject to the restrictions enumerated in § 240.16. After the end of the six-month period provided in §§ 240.16(d) and (e), such checks must be handled in accordance with paragraph (a)(2) of this section.

#### § 240.14 Checks issued to deceased payees.

(a) *Handling of checks when an executor or administrator has been appointed.* (1) An executor or administrator of an estate that has been appointed in accordance with applicable State law may indorse checks issued for the following classes of payments the right to which under law does not terminate with the death of the payee: payments for the redemption of currencies or for principal and/or interest on U.S. securities; payments for tax refunds; and payments for goods and services.

(i) An executor or administrator indorsing any such check must include, as part of the indorsement, an indication of the capacity in which the executor or administrator is indorsing. An example would be: "John Jones by Mary Jones, executor of the estate of John Jones."

(ii) When a check indorsed in this fashion is presented for payment by a financial institution, it will be paid by Treasury without the submission of documentary proof of the authority of the executor or administrator, with the understanding that evidence of such claimed authority to indorse may be required by Treasury in the event of a dispute.

(2) An executor or administrator of an estate may not indorse a check issued for any class of payment other

than one specified in paragraph (a)(1) of this section. Other checks, such as recurring benefit payments and annuity payments, may not be negotiated after the death of the payee. Such checks must be returned to the certifying agency for determination as to whether, under applicable law, payment is due and to whom it may be made.

(b) *Handling of checks when an executor or administrator has not been appointed.* If an executor or administrator has not been appointed, all checks issued to a deceased payee must be returned to the certifying agency for determination as to whether, under applicable law, payment is due and to whom it may be made.

(c) *Handling of checks when a certifying agency learns, after the issuance of a recurring benefit payment check, that the payee died prior to the date of issuance.* (1) A recurring benefit payment check, issued after a payee's death, is not payable. As a consequence, when a certifying agency learns that a payee has died, the certifying agency must give immediate notice to Treasury, as prescribed at Volume I, Part 4, Chapter 7000 of the Treasury Financial Manual, which can be found at <http://www.fms.treas.gov>. Upon receipt of such notice from a certifying agency, Treasury will instruct the Federal Reserve Bank to refuse payment of the check upon presentment. Upon receipt of such instruction from Treasury, the Federal Reserve Bank will make every appropriate effort to intercept the check. If the check is successfully intercepted, the Federal Reserve Bank will refuse payment, and will return the check unpaid to the presenting bank with an annotation that the payee is deceased. If a financial institution learns that a date of death triggering action under this section is erroneous, the financial institution must advise the payee to contact the payment certifying agency.

(2) Nothing in this section shall limit the right of Treasury to institute recclamation proceedings under the provisions of §§ 240.7 and 240.8 with respect to a check issued to a deceased payee that has been negotiated and paid over a forged or unauthorized indorsement.